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PLEASE RESPOND TO LIVINGSTON OFFICE

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ROBERT G. SABATTIS  
ERICA J. HIRSCH

\* ALSO ADMITTED IN NY  
+ ALSO ADMITTED IN PA  
△ ALSO ADMITTED IN FL

February 24, 2004

**Via Hand Delivery**

Mr. William T. Walsh  
Clerk, United States District Court  
District of New Jersey  
Dr. M.L.K. Federal Plaza  
50 Walnut Street  
Newark, New Jersey 07102

**Re: John Foley v. Borough of Roseland, et al.  
Civil Action No. : 04-282 (WJM)  
Our File No.: 1136.0881104**

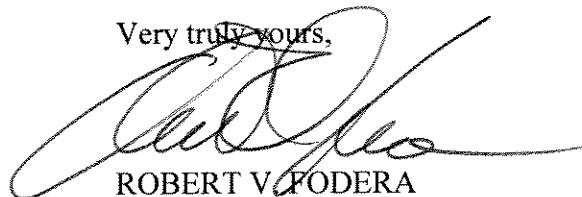
Dear Mr. Walsh:

Enclosed please find for filing with regard to the above captioned matter, an original and three (3) copies of the following pleadings:

1. Answer for defendants Borough of Roseland, Chief Richard McDonough and Police Officer Brian Maglio;
2. Cross-Claim for Contribution from defendant Borough of Roseland;
3. Cross-Claim for Indemnification from defendant Chief Richard McDonough
4. Cross-Claim for Indemnification from defendant Police Officer Brian Maglio

In addition, enclosed is a 3/4" micro disk in PDF format with said Notice of Removal. Please return "filed" stamped copies of these documents in the enclosed self-addressed stamped envelope.

Very truly yours,



ROBERT V. FODERA

RVF:jj

cc: David I. Fox, Esq.  
Mr. Thomas Kaczynski  
Michael John Stone, Esq.

**FOX AND FOX LLP**

Clerk, United States District Court

February 24, 2004

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Mr. Brian Maglio  
Chief Richard McDonough  
Steven J. Kossup, Esq.  
James K. Killelea

David I. Fox (DF 8011)  
Fox and Fox LLP  
70 South Orange Avenue  
Livingston, New Jersey 07039  
(908) 791-1110  
Attorney for Defendant Chief Richard McDonough

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

JOHN FOLEY AND KATHERINE FOLEY,

Plaintiffs,

vs.

POLICE OFFICER FREDDIE MITCHELL,  
JR., FREDDIE MITCHELL, JR., AN  
INDIVIDUAL, POLICE OFFICER BRIAN  
MAGLIO, BRIAN MAGLIO, AN  
INDIVIDUAL, POLICE CHIEF RICHARD  
MCDONOUGH, RICHARD  
MCDONOUGH, AN INDIVIDUAL,  
BOROUGH OF ROSELAND, ABC  
CORPORATION 1-5, AND JOHN DOES 1-  
XX,

Defendants.

Civil Action No. 04-282 (WJM)

**CROSS-CLAIM FOR  
INDEMNIFICATION**

Defendant Richard McDonough, a Police Chief and an individual, (hereinafter referred to as "Defendant"), by his attorney David I. Fox, Esq., Fox and Fox LLP, by way of Cross-Claim, says:

**CROSSCLAIM FOR CONTRACTUAL INDEMNIFICATION**

1. Defendant, Richard McDonough, while denying all claims asserted by plaintiffs, asserts that all of his actions were performed in the course of his duties as a representative for the Borough of Roseland, and therefore he demands that his defense of this action and that any judgment or damages returned against this defendant in this action be indemnified by the defendant Borough of Roseland pursuant to his contract of employment with the Borough of Roseland.

WHEREFORE, defendant Richard McDonough, demands indemnification against co-defendants for any and all sums required to pay in this action.

DAVID I. FOX ESQ.  
FOX AND FOX LLP  
Attorney for defendant  
Chief Richard McDonough

By:  \_\_\_\_\_  
DAVID I. FOX (DF 8011)

David I. Fox (DF 8011)  
Fox and Fox LLP  
70 South Orange Avenue  
Livingston, New Jersey 07039  
(908) 791-1110  
Attorney for Defendant Brian Maglio

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

JOHN FOLEY AND KATHERINE FOLEY,

Plaintiffs,

vs.

POLICE OFFICER FREDDIE MITCHELL,  
JR., FREDDIE MITCHELL, JR., AN  
INDIVIDUAL, POLICE OFFICER BRIAN  
MAGLIO, BRIAN MAGLIO, AN  
INDIVIDUAL, POLICE CHIEF RICHARD  
MCDONOUGH, RICHARD  
MCDONOUGH, AN INDIVIDUAL,  
BOROUGH OF ROSELAND, ABC  
CORPORATION 1-5, AND JOHN DOES 1-  
XX,

Defendants.

Civil Action No. 04-282 (WJM)

**CROSS-CLAIM FOR  
INDEMNIFICATION**

Defendant Brian Maglio, a Police Officer and an individual, (hereinafter referred to as "Defendant"), by his attorney David I. Fox, Esq., Fox and Fox LLP, by way of Cross-Claim, says:

**CROSSCLAIM FOR CONTRACTUAL INDEMNIFICATION**

1. Defendant, Brian Maglio, while denying all claims asserted by plaintiffs, asserts that all of his actions were performed in the course of his duties as a representative for the Borough of Roseland, and therefore he demands that his defense of this action and that any judgment or damages returned against this defendant in this action be indemnified by the defendant Borough of Roseland pursuant to his contract of employment with the Borough of Roseland.

WHEREFORE, defendant Brian Maglio, demands indemnification against co-defendants  
for any and all sums required to pay in this action.

DAVID I. FOX ESQ.  
FOX AND FOX LLP  
Attorney for defendant  
Brian Maglio

By:  \_\_\_\_\_

DAVID I. FOX (DF 8011)

February 24, 2004

David I. Fox (DF 8011)  
Fox and Fox LLP  
70 South Orange Avenue  
Livingston, New Jersey 07039  
(973) 597-0777  
Attorneys for Defendants Borough of Roseland,  
Brian Maglio and Richard McDonough

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

JOHN FOLEY AND KATHERINE FOLEY,

Plaintiffs,

vs.

POLICE OFFICER FREDDIE MITCHELL, JR.,  
FREDDIE MITCHELL, JR., AN INDIVIDUAL,  
POLICE OFFICER BRIAN MAGLIO, BRIAN  
MAGLIO, AN INDIVIDUAL, POLICE CHIEF  
RICHARD MCDONOUGH, RICHARD  
MCDONOUGH, AN INDIVIDUAL, BOROUGH  
OF ROSELAND, ABC CORPORATION 1-5,  
AND JOHN DOES 1-XX,

Defendants.

Civil Action No. 04-282 (WJM)

**CROSS-CLAIM FOR  
CONTRIBUTION**

The defendant Borough of Roseland (hereinafter referred to as "Defendant"), by their attorneys Fox and Fox, LLP, by way of Cross-Claim says:

**CLAIM FOR CONTRIBUTION**

**BY THE BOROUGH OF ROSELAND**

Defendant Borough of Roseland, by way of Cross-Claim for contribution against the co-defendants, says:

**FIRST COUNT**

1. Defendant Borough of Roseland deny any liability whatsoever to plaintiffs.
2. Defendant Borough of Roseland further deny that the co-defendants have any liability whatsoever to plaintiffs.

3. Notwithstanding the denial of liability, defendant Borough of Roseland, demands contribution based upon N.J.S.A. 2A:53A (Joint Tortfeasors Contribution Act), N.J.S.A. 2A:15-5.1 (Comparative Negligence), N.J.S.A. 59:9-3, 59:9-3.1, and 59:9 et seq. (Tort Claims Act) and common law against co-defendants for any and all sum which defendant Borough of Roseland may be required to pay in this cause of action.

WHEREFORE, defendant Borough of Roseland, demands a judgment of contribution against co-defendants for any and all sums required to pay in this action.

**FOX AND FOX LLP**  
Attorneys for Defendant  
Borough of Roseland

By: 

\_\_\_\_\_  
DAVID N. FOX, ESQ. (DF 8011)

Dated: February 24, 2004



David I. Fox (DF 8011)  
Fox and Fox LLP  
70 South Orange Avenue  
Livingston, New Jersey 07039  
(973) 597-0777  
Attorneys for Defendants Borough of Roseland,  
Brian Maglio and Richard McDonough

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

JOHN FOLEY AND KATHERINE FOLEY,

Plaintiffs,

vs.

POLICE OFFICER FREDDIE MITCHELL, JR.,  
FREDDIE MITCHELL, JR., AN INDIVIDUAL,  
POLICE OFFICER BRIAN MAGLIO, BRIAN  
MAGLIO, AN INDIVIDUAL, POLICE CHIEF  
RICHARD MCDONOUGH, RICHARD  
MCDONOUGH, AN INDIVIDUAL, BOROUGH  
OF ROSELAND, ABC CORPORATION 1-5,  
AND JOHN DOES 1-XX,

Defendants.

Civil Action No. 04-282 (WJM)

**ANSWER, SEPARATE DEFENSES,  
AND DESIGNATION OF TRIAL  
COUNSEL**

The defendants Borough of Roseland, Police Officer Brian Maglio, Brian Maglio, an Individual, Police Chief Richard McDonough, Richard McDonough, an Individual, (hereinafter referred to collectively as "Defendants"), by their attorneys Fox and Fox, LLP, by way of answer to plaintiffs' complaint, say:

**IDENTIFICATION OF PARTIES**

1. Defendants admit the allegations contained in paragraph 1.
2. Defendants admit the allegations contained in paragraph 2.
3. Defendants admit the allegations contained in paragraph 3.
4. Defendants admit the allegations contained in paragraph 4.

5. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 5 and puts plaintiffs to their proofs with regard thereto.

6. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 6 and puts plaintiffs to their proofs with regard thereto.

**STATEMENT OF FACTS GIVING RISE TO THIS COMPLAINT**

1. Defendants deny the allegations contained in paragraph 1.

2. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 2 and puts plaintiffs to their proofs with regard thereto.

3. Defendants admit the allegations contained in paragraph 3.

4. Defendants admit the allegations contained in paragraph 4.

5. Defendants deny the allegations contained in paragraph 5 effective as of March 1, 2002.

6. Defendants admit the allegations contained in paragraph 6.

7. Defendants admit the allegations contained in paragraph 7.

8. Defendants admit the allegations contained in paragraph 8.

9. Defendants admit the allegations contained in paragraph 9.

10. Defendants admit the allegations contained in paragraph 10.

11. Defendants admit the allegations contained in paragraph 11.

12. Defendants admit the allegations contained in paragraph 12.

13. Defendants admit the allegations contained in paragraph 13.

14. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 14 and puts plaintiffs to their proofs with regard thereto.

15. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 15 and puts plaintiffs to their proofs with regard thereto.

16. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 16 and puts plaintiffs to their proofs with regard thereto.

17. Defendants deny the allegations contained in paragraph 17.

18. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 18 and puts plaintiffs to their proofs with regard thereto.

19. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 19 and puts plaintiffs to their proofs with regard thereto.

20. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 20 and puts plaintiffs to their proofs with regard thereto.

21. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in 21 and puts plaintiffs to their proofs with regard thereto.

22. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 22 and puts plaintiffs to their proofs with regard thereto.

23. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 23 and puts plaintiffs to their proofs with regard thereto.

24. Defendants admit the allegations contained in paragraph 24.

25. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 25 and puts plaintiffs to their proofs with regard thereto.

26. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 26 and puts plaintiffs to their proofs with regard thereto.

27. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 27 and puts plaintiffs to their proofs with regard thereto.

28. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 28 and puts plaintiffs to their proofs with regard thereto.

29. Defendants admit the allegations contained in paragraph 29.

30. Defendants admit the allegations contained in paragraph 30.

31. Defendants admit the allegations contained in paragraph 31.

32. Defendants admit the allegations contained in paragraph 32.

33. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 33 and puts plaintiffs to their proofs with regard thereto.

34. Defendants deny the allegations contained in paragraph 34.

35. Defendants admit the allegations contained in paragraph 35.

36. Defendants admit the allegations contained in paragraph 36.

37. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 37 and puts plaintiffs to their proofs with regard thereto.

38. Defendants admit the allegations contained in paragraph 38.

39. Defendants admit the allegations contained in paragraph 39.

40. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 40 and puts plaintiffs to their proofs with regard thereto.

41. Defendants deny the allegations contained in paragraph 41.

42. Defendants deny the allegations contained in paragraph 42.

43. Defendants deny the allegations contained in paragraph 43.

44. Defendants deny the allegations contained in paragraph 44.

45. Defendants deny the allegations contained in paragraph 45.

46. Defendants deny the allegations contained in paragraph 46.

47. Defendants deny the allegations contained in paragraph 47.

48. Defendants deny the allegations contained in paragraph 48.

49. Defendants deny the allegations contained in paragraph 49.

50. Defendants deny the allegations contained in paragraph 50.

51. Defendants deny the allegations contained in paragraph 51.

52. Defendants deny the allegations contained in paragraph 52.

53. Defendants admit the allegations contained in paragraph 53.

54. Defendants admit the allegations contained in paragraph 54.

55. Defendants deny the allegations contained in paragraph 55.

56. Defendants deny the allegations contained in paragraph 56.

57. Defendants deny the allegations contained in paragraph 57.

58. Defendants deny the allegations contained in paragraph 58.

59. Defendants deny the allegations contained in paragraph 59.

60. Defendants deny the allegations contained in paragraph 60.

61. Defendants deny the allegations contained in paragraph 61.

62. Defendants deny the allegations contained in paragraph 62.

63. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 63 and puts plaintiffs to their proofs with regard thereto.

64. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 64 and puts plaintiffs to their proofs with regard thereto.

65. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 65 and puts plaintiffs to their proofs with regard thereto.

66. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 66 and puts plaintiffs to their proofs with regard thereto.

67. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 67 and puts plaintiffs to their proofs with regard thereto.

68. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 68 and puts plaintiffs to their proofs with regard thereto.

69. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 69 and puts plaintiffs to their proofs with regard thereto.

70. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 70 and puts plaintiffs to their proofs with regard thereto.

71. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 71 and puts plaintiffs to their proofs with regard thereto.

72. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 72 and puts plaintiffs to their proofs with regard thereto.

73. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 73 and puts plaintiffs to their proofs with regard thereto.

74. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 74 and puts plaintiffs to their proofs with regard thereto.

75. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 75 and puts plaintiffs to their proofs with regard thereto.

76. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 76 and puts plaintiffs to their proofs with regard thereto.

77. Defendants deny the allegations contained in paragraph 77.

78. Defendants deny the allegations contained in paragraph 78.

79. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 79 and puts plaintiffs to their proofs with regard thereto.

80. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 80 and puts plaintiffs to their proofs with regard thereto.

81. Defendants deny the allegations contained in paragraph 81.

82. Defendants deny the allegations contained in paragraph 82.

83. Defendants deny the allegations contained in paragraph 83.

84. Defendants deny the allegations contained in paragraph 84.

85. Defendants deny the allegations contained in paragraph 85.



86. Defendants deny the allegations contained in paragraph 86.

87. Defendants deny the allegations contained in paragraph 87.

88. Defendants deny the allegations contained in paragraph 88.

89. Defendants deny the allegations contained in paragraph 89.

90. Defendants deny the allegations contained in paragraph 90.

91. Defendants deny the allegations contained in paragraph 91.

92. Defendants deny the allegations contained in paragraph 92.

93. Defendants deny the allegations contained in paragraph 93.

94. Defendants deny the allegations contained in paragraph 94.

95. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 95 and puts plaintiffs to their proofs with regard thereto.

96. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 96 and puts plaintiffs to their proofs with regard thereto.

97. Defendants deny the allegations contained in paragraph 97.

98. Defendants deny the allegations contained in paragraph 98.

99. Defendants deny the allegations contained in paragraph 99.

100. Defendants deny the allegations contained in paragraph 100.

101. Defendants deny the allegations contained in paragraph 101.

102. Defendants deny the allegations contained in paragraph 102.

103. Defendants deny the allegations contained in paragraph 103.

104. Defendants deny the allegations contained in paragraph 104.

105. Defendants deny the allegations contained in paragraph 105.

106. Defendants deny the allegations contained in paragraph 106.

107. Defendants deny the allegations contained in paragraph 107.

108. Defendants deny the allegations contained in paragraph 108.

109. Defendants deny the allegations contained in paragraph 109.



110. Defendants deny the allegations contained in paragraph 110.

111. Defendants deny the allegations contained in paragraph 111.

112. Defendants deny the allegations contained in paragraph 112.

113. Defendants deny the allegations contained in paragraph 113.

114. Defendants deny the allegations contained in paragraph 114.

115. Defendants deny the allegations contained in paragraph 115.

116. Defendants deny the allegations contained in paragraph 116.

117. Defendants deny the allegations contained in paragraph 117.

118. Defendants deny the allegations contained in paragraph 118.

119. Defendants deny the allegations contained in paragraph 119.

120. Defendants deny the allegations contained in paragraph 120.

121. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 121 and puts plaintiffs to their proofs with regard thereto.

122. Defendants admit the allegations contained in paragraph 122.

123. Defendants admit the allegations contained in paragraph 123.

124. Defendants admit the allegations contained in paragraph 124.

125. Defendants deny the allegations contained in paragraph 125.

126. Defendants deny the allegations contained in paragraph 126.

127. Defendants deny the allegations contained in paragraph 127.

128. Defendants deny the allegations contained in paragraph 128.

129. Defendants deny the allegations contained in paragraph 129.

130. Defendants deny the allegations contained in paragraph 130.

131. Defendants deny the allegations contained in paragraph 131.

132. Defendants deny the allegations contained in paragraph 132.

133. Defendants deny the allegations contained in paragraph 133.

134. Defendants deny the allegations contained in paragraph 134.

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136. Defendants deny the allegations contained in paragraph 136.
137. Defendants deny the allegations contained in paragraph 137.
138. Defendants deny the allegations contained in paragraph 138.
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168. Defendants deny the allegations contained in paragraph 168.

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176. Defendants deny the allegations contained in paragraph 176.

177. Defendants deny the allegations contained in paragraph 177.

178. Defendants deny the allegations contained in paragraph 178.

179. Defendants deny the allegations contained in paragraph 179.

180. Defendants deny the allegations contained in paragraph 180.

181. Defendants deny the allegations contained in paragraph 181.

182. Defendants deny the allegations contained in paragraph 182.

183. Defendants deny the allegations contained in paragraph 183.

184. Defendants deny the allegations contained in paragraph 184.

185. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 185 and puts plaintiffs to their proofs with regard thereto.

186. Defendants deny the allegations contained in paragraph 186.

187. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 187 and puts plaintiffs to their proofs with regard thereto.

188. Defendants deny the allegations contained in paragraph 188.

189. Defendants deny the allegations contained in paragraph 189.

190. Defendants deny the allegations contained in paragraph 190.

191. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 191 and puts plaintiffs to their proofs with regard thereto.

192. Defendants deny the allegations contained in paragraph 192.

193. Defendants deny the allegations contained in paragraph 193.

194. Defendants deny the allegations contained in paragraph 194.

195. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 195 and puts plaintiffs to their proofs with regard thereto.

196. Defendants admit the allegations contained in paragraph 196.

197. Defendants admit the allegations contained in paragraph 197.

198. Defendants admit the allegations contained in paragraph 198.

199. Defendants admit the allegations contained in paragraph 199.

200. Defendants deny the allegations contained in paragraph 200.

201. Defendants deny the allegations contained in paragraph 201.

202. Defendants deny the allegations contained in paragraph 202.

203. Defendants deny the allegations contained in paragraph 203.

204. Defendants deny the allegations contained in paragraph 204.

205. Defendants deny the allegations contained in paragraph 205.

206. Defendants deny the allegations contained in paragraph 206.

207. Defendants deny the allegations contained in paragraph 207.

208. Defendants deny the allegations contained in paragraph 208.

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211. Defendants deny the allegations contained in paragraph 211.

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228. Defendants deny the allegations contained in paragraph 228.

229. Defendants deny the allegations contained in paragraph 229.

230. Defendants deny the allegations contained in paragraph 230.

231. Defendants deny the allegations contained in paragraph 231.

232. Defendants deny the allegations contained in paragraph 232.

233. Defendants deny the allegations contained in paragraph 233.

234. Defendants deny the allegations contained in paragraph 234.

235. Defendants deny the allegations contained in paragraph 235.

236. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 236 and puts plaintiffs to their proofs with regard thereto.

237. Defendants deny the allegations contained in paragraph 237.

- 238. Defendants deny the allegations contained in paragraph 238.
- 239. Defendants deny the allegations contained in paragraph 239.
- 240. Defendants deny the allegations contained in paragraph 240.
- 241. Defendants admit the allegations contained in paragraph 241.
- 242. Defendants admit the allegations contained in paragraph 242.
- 243. Defendants deny the allegations contained in paragraph 243.
- 244. Defendants deny the allegations contained in paragraph 244.
- 245. Defendants admit the allegations contained in paragraph 245.
- 246. Defendants admit the allegations contained in paragraph 246.
- 247. Defendants admit the allegations contained in paragraph 247.
- 248. Defendants admit the allegations contained in paragraph 248.
- 249. Defendants deny the allegations contained in paragraph 249.
- 250. Defendants deny the allegations contained in paragraph 250.
- 251. Defendants admit the allegations contained in paragraph 251.
- 252. Defendants deny the allegations contained in paragraph 252.
- 253. Defendants deny the allegations contained in paragraph 253.
- 254. Defendants deny the allegations contained in paragraph 254.
- 255. Defendants deny the allegations contained in paragraph 255.
- 256. Defendants deny the allegations contained in paragraph 256.
- 257. Defendants deny the allegations contained in paragraph 257.
- 258. Defendants deny the allegations contained in paragraph 258.
- 259. Defendants admit the allegations contained in paragraph 259.
- 260. Defendants deny the allegations contained in paragraph 260.
- 261. Defendants deny the allegations contained in paragraph 261.
- 262. Defendants deny the allegations contained in paragraph 262.
- 263. Defendants deny the allegations contained in paragraph 263.
- 264. Defendants deny the allegations contained in paragraph 264.
- 265. Defendants deny the allegations contained in paragraph 265.



- 266. Defendants deny the allegations contained in paragraph 266.
- 267. Defendants deny the allegations contained in paragraph 267.
- 268. Defendants deny the allegations contained in paragraph 268.
- 269. Defendants deny the allegations contained in paragraph 269.
- 270. Defendants deny the allegations contained in paragraph 270.
- 271. Defendants deny the allegations contained in paragraph 271.
- 272. Defendants deny the allegations contained in paragraph 272.
- 273. Defendants deny the allegations contained in paragraph 273.
- 274. Defendants deny the allegations contained in paragraph 274.
- 275. Defendants deny the allegations contained in paragraph 275.
- 276. Defendants deny the allegations contained in paragraph 276.
- 277. Defendants deny the allegations contained in paragraph 277.
- 278. Defendants deny the allegations contained in paragraph 278.
- 279. Defendants deny the allegations contained in paragraph 279.
- 280. Defendants deny the allegations contained in paragraph 280.
- 281. Defendants admit the allegations contained in paragraph 281.
- 282. Defendants admit the allegations contained in paragraph 282.
- 283. Defendants admit the allegations contained in paragraph 283.
- 284. Defendants deny the allegations contained in paragraph 284.
- 285. Defendants deny the allegations contained in paragraph 285.
- 286. Defendants deny the allegations contained in paragraph 286.
- 287. Defendants admit the allegations contained in paragraph 287.
- 288. Defendants deny the allegations contained in paragraph 288.
- 289. Defendants deny the allegations contained in paragraph 289.
- 290. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 290 and puts plaintiffs to their proofs with regard thereto.
- 291. Defendants admit the allegations contained in paragraph 291.

292. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 292 and puts plaintiffs to their proofs with regard thereto.

293. Defendants deny the allegations contained in paragraph 293.

294. Defendants deny the allegations contained in paragraph 294.

295. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 295 and puts plaintiffs to their proofs with regard thereto.

296. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 296 and puts plaintiffs to their proofs with regard thereto.

297. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 297 and puts plaintiffs to their proofs with regard thereto.

298. Defendants deny the allegations contained in paragraph 298.

299. Defendants deny the allegations contained in paragraph 299.

300. Defendants deny the allegations contained in paragraph 300.

301. Defendants deny the allegations contained in paragraph 301.

302. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 302 and puts plaintiffs to their proofs with regard thereto.

303. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 303 and puts plaintiffs to their proofs with regard thereto.

304. Defendants deny the allegations contained in paragraph 304.

305. Defendants deny the allegations contained in paragraph 305.

306. Defendants deny the allegations contained in paragraph 306.

307. Defendants deny the allegations contained in paragraph 307.



308. Defendants deny the allegations contained in paragraph 308.

309. Defendants deny the allegations contained in paragraph 309.

310. Defendants deny the allegations contained in paragraph 310.

311. Defendants deny the allegations contained in paragraph 311.

312. Defendants deny the allegations contained in paragraph 312.

313. Defendants deny the allegations contained in paragraph 313.

314. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 314 and puts plaintiffs to their proofs with regard thereto.

315. Defendants deny the allegations contained in paragraph 315.

316. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 316 and puts plaintiffs to their proofs with regard thereto.

317. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 317 and puts plaintiffs to their proofs with regard thereto.

318. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 318 and puts plaintiffs to their proofs with regard thereto.

319. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 319 and puts plaintiffs to their proofs with regard thereto.

320. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 320 and puts plaintiffs to their proofs with regard thereto.

321. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 321 and puts plaintiffs to their proofs with regard thereto.

322. Defendants deny the allegations contained in paragraph 322.

323. Defendants deny the allegations contained in paragraph 323.

324. Defendants are without knowledge or information sufficient to form a belief to either admit or deny the allegations contained in paragraph 324 and puts plaintiffs to their proofs with regard thereto.

325. Defendants deny the allegations contained in paragraph 325.

326. Defendants deny the allegations contained in paragraph 326.

327. Defendants deny the allegations contained in paragraph 327.

328. Defendants deny the allegations contained in paragraph 328.

329. Defendants deny the allegations contained in paragraph 329.

330. Defendants deny the allegations contained in paragraph 330.

331. Defendants deny the allegations contained in paragraph 331.

332. Defendants deny the allegations contained in paragraph 332.

333. Defendants deny the allegations contained in paragraph 333.

334. Defendants deny the allegations contained in paragraph 334.

335. Defendants deny the allegations contained in paragraph 335.

336. Defendants deny the allegations contained in paragraph 336.

337. Defendants deny the allegations contained in paragraph 337.

338. Defendants deny the allegations contained in paragraph 338.

339. Defendants deny the allegations contained in paragraph 339.

340. Defendants deny the allegations contained in paragraph 340.

341. Defendants admit the allegations contained in paragraph 341.

342. Defendants deny the allegations contained in paragraph 342.

343. Defendants deny the allegations contained in paragraph 343.

344. Defendants deny the allegations contained in paragraph 344.

345. Defendants deny the allegations contained in paragraph 345.

346. Defendants deny the allegations contained in paragraph 346.

347. Defendants deny the allegations contained in paragraph 347.

- 348. Defendants deny the allegations contained in paragraph 348.
- 349. Defendants deny the allegations contained in paragraph 349.
- 350. Defendants deny the allegations contained in paragraph 350.
- 351. Defendants deny the allegations contained in paragraph 351.
- 352. Defendants deny the allegations contained in paragraph 352.
- 353. Defendants deny the allegations contained in paragraph 353.
- 354. Defendants deny the allegations contained in paragraph 354.
- 355. Defendants deny the allegations contained in paragraph 355.
- 356. Defendants deny the allegations contained in paragraph 356.
- 357. Defendants deny the allegations contained in paragraph 357.
- 358. Defendants deny the allegations contained in paragraph 358.
- 359. Defendants deny the allegations contained in paragraph 359.
- 360. Defendants deny the allegations contained in paragraph 360.
- 361. Defendants deny the allegations contained in paragraph 361.
- 362. Defendants deny the allegations contained in paragraph 362.
- 363. Defendants deny the allegations contained in paragraph 363.
- 364. Defendants deny the allegations contained in paragraph 364.
- 365. Defendants deny the allegations contained in paragraph 365.
- 366. Defendants deny the allegations contained in paragraph 366.
- 367. Defendants deny the allegations contained in paragraph 367.
- 368. Defendants deny the allegations contained in paragraph 368.
- 369. Defendants deny the allegations contained in paragraph 369.
- 370. Defendants deny the allegations contained in paragraph 370.

#### **FIRST COUNT**

##### **Assault by Defendant Mitchell, Jr.**

- 1. Defendants repeats and reiterates each and every response to the prior allegations as though set forth at length herein.
- 2. Defendants deny the allegations contained in paragraph 2.

3. Defendants deny the allegations contained in paragraph 3.
4. Defendants deny the allegations contained in paragraph 4.
5. Defendants deny the allegations contained in paragraph 5.
6. Defendants deny the allegations contained in paragraph 6.
7. Defendants deny the allegations contained in paragraph 7.
8. Defendants deny the allegations contained in paragraph 8.
9. Defendants deny the allegations contained in paragraph 9.
10. Defendants deny the allegations contained in paragraph 10.
11. Defendants deny the allegations contained in paragraph 11.
12. Defendants deny the allegations contained in paragraph 12.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and assessed attorneys fees, costs and for such other relief as the court may deem proper and just against plaintiffs.

#### **SECOND COUNT**

##### **Harassment and Emotional Distress Intentionally Inflicted**

1. Defendants repeat and reiterate each and every response to the prior allegations as though set forth at length herein.
2. Defendants deny the allegations contained in paragraph 2.
3. Defendants deny the allegations contained in paragraph 3.
4. Defendants deny the allegations contained in paragraph 4.
5. Defendants deny the allegations contained in paragraph 5.
6. Defendants deny the allegations contained in paragraph 6.
7. Defendants deny the allegations contained in paragraph 7.
8. Defendants deny the allegations contained in paragraph 8.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and that attorneys fees and costs be assessed against plaintiffs.

**THIRD COUNT**

**Defendant Magilo**

1. Defendants repeat and reiterate each and every response to the prior allegations as though set forth at length herein.

2. Defendants deny the allegations contained in paragraph 2.

3. Defendants deny the allegations contained in paragraph 3.

4. Defendants deny the allegations contained in paragraph 4.

5. Defendants deny the allegations contained in paragraph 5.

6. Defendants deny the allegations contained in paragraph 6.

7. Defendants deny the allegations contained in paragraph 7.

8. Defendants deny the allegations contained in paragraph 8.

9. Defendants deny the allegations contained in paragraph 9.

10. Defendants deny the allegations contained in paragraph 10.

11. Defendants deny the allegations contained in paragraph 11.

12. Defendants deny the allegations contained in paragraph 12.

13. Defendants deny the allegations contained in paragraph 13.

14. Defendants deny the allegations contained in paragraph 14.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and that attorneys fees and costs be assessed against plaintiffs.

**FOURTH COUNT**

**Stalking, Harassment, Intentional Infliction of Emotional Distress**

1. Defendants repeat and reiterate each and every response to the prior allegations as though set forth at length herein.

2. Defendants deny the allegations contained in paragraph 2.

3. Defendants deny the allegations contained in paragraph 3.

4. Defendants deny the allegations contained in paragraph 4.

5. Defendants deny the allegations contained in paragraph 5.

6. Defendants deny the allegations contained in paragraph 6.

7. Defendants deny the allegations contained in paragraph 7.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and that attorneys fees and costs be assessed against plaintiffs.

#### **FIFTH COUNT**

##### **Negligent Hiring**

1. Defendants repeat and reiterate each and every response to the prior allegations as though set forth at length herein.

2. Defendants deny the allegations contained in paragraph 2.

3. Defendants deny the allegations contained in paragraph 3.

4. Defendants deny the allegations contained in paragraph 4.

5. Defendants deny the allegations contained in paragraph 5.

6. Defendants deny the allegations contained in paragraph 6.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and that attorneys fees and costs be assessed against plaintiffs.

#### **SIXTH COUNT**

##### **Respondeat Superior**

1. Defendants repeat and reiterate each and every response to the prior allegations as though set forth at length herein.

2. Defendants deny the allegations contained in paragraph 1.

3. Defendants deny the allegations contained in paragraph 3.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and that attorneys fees and costs be assessed against plaintiffs.

#### **SEVENTH COUNT**

##### **Willful Indifference**

1. Defendants repeat and reiterate each and every response to the prior allegations as though set forth at length herein.

2. Defendants deny the allegations contained in paragraph 2.

3. Defendants deny the allegations contained in paragraph 3.
4. Defendants deny the allegations contained in paragraph 4.
5. Defendants deny the allegations contained in paragraph 5.
6. Defendants deny the allegations contained in paragraph 6.
7. Defendants deny the allegations contained in paragraph 7.
8. Defendants deny the allegations contained in paragraph 8.
9. Defendants deny the allegations contained in paragraph 9.
10. Defendants deny the allegations contained in paragraph 10.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and that attorneys fees and costs be assessed against plaintiffs.

#### **EIGHTH COUNT**

##### **Negligent Hiring and Failure to Train and Supervise**

1. Defendants repeat and reiterate each and every response to the prior allegations as though set forth at length herein.
2. Defendants deny the allegations contained in paragraph 2.
3. Defendants deny the allegations contained in paragraph 3.
4. Defendants deny the allegations contained in paragraph 4.
5. Defendants deny the allegations contained in paragraph 5.
6. Defendants deny the allegations contained in paragraph 6.
7. Defendants deny the allegations contained in paragraph 7.
8. Defendants deny the allegations contained in paragraph 8.
9. Defendants deny the allegations contained in paragraph 9.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and that attorneys fees and costs be assessed against plaintiffs.

#### **NINTH COUNT**

##### **New Jersey Constitution**

1. Defendants repeat and reiterate each and every response to the prior allegations as though set forth at length herein.



2. Defendants deny the allegations contained in paragraph 2.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and that attorneys fees and costs be assessed against plaintiffs.

**TENTH COUNT**

**U.S.C. Title 42 § 1983**

1. Defendants repeat and reiterate each and every response to the prior allegations as though set forth at length herein.

WHEREFORE, defendants demand that plaintiffs' complaint be dismissed in its entirety and that attorneys fees and costs be assessed against plaintiffs.

**FIRST SEPARATE DEFENSE**

Plaintiffs' complaint fails to state a claim upon which the relief demanded against these defendants may be granted.

**SECOND SEPARATE DEFENSE**

There was no willfulness involved in any of the events involving the factual basis upon which the suit has been instituted.

**THIRD SEPARATE DEFENSE**

Defendants assert the non-satisfaction and/or non-existence of conditions precedent to plaintiffs' assertion of the subject claims and/or to plaintiffs' entitlement of the relief sought against these defendants.

**FOURTH SEPARATE DEFENSE**

These defendants did not engage in extreme and outrageous conduct.

**FIFTH SEPARATE DEFENSE**

Plaintiffs do not have standing to assert the claims made the subject of his complaint.

**SIXTH SEPARATE DEFENSE**

The individual defendants were not members of the upper management of defendant Borough.



**SEVENTH SEPARATE DEFENSE**

Any and all damages sustained by plaintiffs, if any, were the result of their own conduct, actions and/or omissions.

**EIGHTH SEPARATE DEFENSE**

Any and all damages sustained by plaintiffs, if any, were the results of actions and/or omissions of persons and/or entities for whom these defendants are not responsible or liable.

**NINTH SEPARATE DEFENSE**

Plaintiffs have failed to mitigate his damages, if any.

**TENTH SEPARATE DEFENSE**

These defendants acted in good faith, without malice, and with the reasonable belief that their actions were reasonable under the existing facts and circumstances.

**ELEVENTH SEPARATE DEFENSE**

The conduct of these defendants were at all times proper.

**TWELFTH SEPARATE DEFENSE**

Plaintiffs did not have an objective, reasonable belief that these defendants engaged in conduct which violated a law, rule or regulation, or that was incompatible with a clear mandate of public policy.

**THIRTEENTH SEPARATE DEFENSE**

Plaintiffs had no reasonable or objective basis for the belief that these defendants engaged in any illegal conduct or violation of law, rule or regulation or a clear mandated public policy. The alleged misconduct does not rise to the level of a statutory violation.

**FOURTEENTH SEPARATE DEFENSE**

These defendants did not fail to instruct, supervise, control and discipline.

**FIFTEENTH SEPARATE DEFENSE**

Plaintiffs' have failed to exhaust all administrative remedies and is, therefore, barred from recovery.

**SIXTEENTH SEPARATE DEFENSE**

These defendants have no policy, scheme, practice nor custom to violate the constitutional rights of any of its citizens, nor does these defendants have a custom, policy, scheme or practice to tolerate or permit a violation of constitutional rights.

**SEVENTEENTH SEPARATE DEFENSE**

These defendants did not fail to regulate and supervise.

**EIGHTEENTH SEPARATE DEFENSE**

These defendants did not misuse the police process.

**NINETEENTH SEPARATE DEFENSE**

Plaintiffs' complaint is barred in whole or in part by the doctrine of waiver.

**TWENTIETH SEPARATE DEFENSE**

If the plaintiffs suffered damages, the same were caused by the plaintiffs' sole negligence.

**TWENTY-FIRST SEPARATE DEFENSE**

If the plaintiffs suffered damages, the same were caused by the plaintiffs' contributory negligence.

**TWENTY-SECOND SEPARATE DEFENSE**

If the plaintiffs suffered damages, the same were caused by third persons over whom these defendants had no control.

**TWENTY-THIRD SEPARATE DEFENSE**

The plaintiffs' cause of action is barred by the applicable statute of limitations and/or repose.

**TWENTY-FOURTH SEPARATE DEFENSE**

These defendants did not violate any duty owed to the plaintiffs under common law, statute, regulations or standards.

**TWENTY-FIFTH SEPARATE DEFENSE**

The conduct of these defendants were not the proximate cause of the plaintiffs' alleged damages.

**TWENTY-SIXTH SEPARATE DEFENSE**

At the time and place aforesaid, plaintiffs and/or co-defendant were negligent, barring or limiting recovery in whole or in part, and these defendants plead the comparative negligence statute as to all parties.

**TWENTY-SEVENTH SEPARATE DEFENSE**

The alleged damages complained of were due to unavoidable circumstances and causes beyond the control or fault of these defendants.

**TWENTY-EIGHTH SEPARATE DEFENSE**

This action is governed by the provisions of N.J.S.A. 59:1-1, et seq.

**TWENTY-NINTH SEPARATE DEFENSE**

These defendants are immune from suit by virtue of the applicable statutes of the State of New Jersey.

**THIRTIETH SEPARATE DEFENSE**

This action is barred by reason of the substantive provision of N.J.S.A. 59:1-1 et seq., providing for immunity to these defendants under the facts and circumstances as pleaded.

**THIRTY-FIRST SEPARATE DEFENSE**

These defendants expressly and specifically reserves and impleads any and all rights, remedies and immunities pursuant to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and, as such, the plaintiffs are barred from recovery.

**THIRTY-SECOND SEPARATE DEFENSE**

These defendants assert all of the immunities, rights and privileges afforded by the Tort Claims Act, N.J.S.A. 59:1-1 et seq., including but not limited to the Sections 2-2, 2-3, 2-6, 2-7, 3-1, 3-2, 3-7, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 5-1, 5-2, 5-4, 5-5, 5-6, 6-1, 6-2, 6-3, 6-4, 6-5, 6-6, 6-7, 8-3, 8-4, 8-5, 8-6, 8-7, 8-8, 8-10, 9-2, 9-3, 9-4, and 9-6.

**THIRTY-THIRD SEPARATE DEFENSE**

This action is barred by reason of the procedural provisions of N.J.S.A. 59:1-1 et seq., in that plaintiffs did not comply with the preconditions of filing suit.

**THIRTY-FOURTH SEPARATE DEFENSE**

The plaintiffs failed to properly comply with the notice provisions of the Tort Claims Act.

**THIRTY-FIFTH SEPARATE DEFENSE**

Plaintiffs are barred from recovery for failure to present and otherwise file a Notice of Claim within the time, form and place as required by Chapter 8 of Title 59 of the New Jersey Revised Statutes and, as such, these defendants are immune from liability and the plaintiffs are barred from recovery.

**THIRTY-SIXTH SEPARATE DEFENSE**

These defendants are immune from any prejudgment interest in the event of judgment pursuant to Chapter 9, Section 2, of Title 59 of the New Jersey Revised Statutes.

**THIRTY-SEVENTH SEPARATE DEFENSE**

These defendants are immune from liability for any damages for pain and suffering pursuant to N.J.S.A. 59:9-2(d).

**THIRTY-EIGHTH SEPARATE DEFENSE**

These defendants impleads and are entitled to a credit for any benefits paid to the plaintiffs pursuant to N.J.S.A. 59:9-2(e).

**THIRTY-NINTH SEPARATE DEFENSE**

These defendants had no direct and personal participation in the alleged occurrences.

**FORTIETH SEPARATE DEFENSE**

No malicious intent of causing a deprivation of the plaintiffs' civil rights and/or constitutional rights has been factually set out against these defendants.

**FORTY-FIRST SEPARATE DEFENSE**

Plaintiffs' complaint is barred by the Doctrine of unclean hands.

**FORTY-SECOND SEPARATE DEFENSE**

The plaintiffs' complaint is barred by reason of the doctrine of accord and satisfaction.

**FORTY-THIRD SEPARATE DEFENSE**

There was insufficiency of service of process as to these defendants.

**FORTY-FOURTH SEPARATE DEFENSE**

The plaintiffs' claim is without any reasonable basis in law or equity and cannot be supported by a good faith argument of existing law. These defendants have been damaged by the filing of this frivolous claim.

**FORTY-FIFTH SEPARATE DEFENSE**

These defendants specifically deny being liable for punitive damages.

**FORTY-SIXTH SEPARATE DEFENSE**

These defendants deny the applicability of punitive damage theories under the facts of this litigation and, in any event, deny it is so liable under said theories.

**FORTY-SEVENTH SEPARATE DEFENSE**

Punitive damages may not be awarded against these defendants and are inappropriate and not recoverable under the facts of this case and plaintiffs' claim for such damages should be dismissed.

**FORTY-EIGHTH SEPARATE DEFENSE**

Plaintiffs' claim is barred by the doctrine of collateral estoppel.

**FORTY-NINTH SEPARATE DEFENSE**

Any communication by these defendants about the plaintiffs were made without malice.

**FIFTIETH SEPARATE DEFENSE**

Any communication by these defendants about the plaintiffs were made in good faith.

**FIFTY-FIRST SEPARATE DEFENSE**

Any communication by these defendants about the plaintiffs were made in relation to a subject matter in which they had an interest and duty and were addressed to persons having a corresponding interest or duty and were made in good faith and without malice and constituted privileged communications.

**FIFTY-SECOND SEPARATE DEFENSE**

Pursuant to *R. 1:4-8*, the plaintiffs' claims are frivolous and these defendants should be entitled to damages for defending same.

**FIFTY-THIRD SEPARATE DEFENSE**

The suit is barred by the doctrine of laches and estoppel.

**FIFTY-FOURTH SEPARATE DEFENSE**

These defendants deny that any of its actions were malicious or reckless.

**FIFTY-FIFTH SEPARATE DEFENSE**

Plaintiffs claim against these defendants are barred because the State of New Jersey and/or local authorities directed, supervised, ratified, and otherwise regulated all actions of these defendants which are the subject of the complaint.

**FIFTY-SIXTH SEPARATE DEFENSE**

These defendants deny that plaintiffs have suffered any losses or damages; in any event, any losses or damages sustained by plaintiffs are *de minimis*, remote, speculative, and/or transient and, hence, are not cognizable at law.

**FIFTY-SEVENTH SEPARATE DEFENSE**

These defendants, if involved at all, acted reasonably and properly under the circumstances.

**FIFTY-EIGHTH SEPARATE DEFENSE**

Although these defendants deny that at any time they interfered in any way whatsoever with Plaintiff, nevertheless, if such interference is found, it is immaterial and reasonable. if involved at all, acted reasonably and properly under the circumstances.

**FIFTY-NINTH SEPARATE DEFENSE**

The business of these defendants is in the public interest, convenience, and necessity, and it is operated and conducted in compliance with the law.

**SIXTIETH SEPARATE DEFENSE**

Plaintiff is not entitled to attorney's fees and costs.

**SIXTY-FIRST SEPARATE DEFENSE**

These defendants did not act with deliberate indifference to the rights of the plaintiff and therefore the within cause of action should be dismissed.

**SIXTY-SECOND SEPARATE DEFENSE**

This action has been commenced by plaintiff in bad faith and with the intent to harass these defendants and cause these defendants great sums of money to defend this cause of action, and

therefore these defendants will seek reimbursement of its attorney fees and costs pursuant to 42 U.S.C. § 1988 and N.J.S.A. 2A:15-59.1.

### **SIXTY-THIRD SEPARATE DEFENSE**

These defendants reserve the right to apply to the Court for the imposition of sanctions against the Plaintiff pursuant to Rule 11 of the F.R.C.P. and to make an application for counsel fees and costs of suit, pursuant to Section 1988 of Title 42 of the United States Code Annotated and N.J.S.A. 2A:15-59-1, on the basis that the within action is without merit, is frivolous and has been instituted by the Plaintiff in bad faith and with the intent to harass this Defendant and to cause him to incur great expense in defense, all to the damage of this Defendant.

### **DESIGNATION OF TRIAL COUNSEL**

David I. Fox, Esq. is hereby designated as trial counsel.

#### **FOX AND FOX LLP**

Attorneys for Defendants Borough of Roseland,  
Brian Maglio and Richard McDonough

By: 

\_\_\_\_\_  
DAVID I. FOX, ESQ. (DF 8011)

Dated: February 24, 2004

### **CERTIFICATION**

In accordance with *Civ.* Rule 11.2, I certify that the matter in controversy is not the subject of any other action pending in any court, or of any arbitration proceeding and that no such action or arbitration proceeding is now contemplated. I also certify that I know of no names of any other parties who should be joined in this action.

#### **FOX AND FOX LLP**

Attorneys for Defendants Borough of  
Roseland, Brian Maglio and Richard  
McDonough

By: 

\_\_\_\_\_  
DAVID I. FOX, ESQ. (DF 8011)

Dated: February 24, 2004



### CERTIFICATION OF SERVICE

I, the undersigned certify that on this date, I served upon counsel for the Plaintiffs by Regular Mail in accordance with the Rules of Court, the following pleadings:

1. Answer for defendants Borough of Roseland, Chief Richard McDonough and Police Officer Brian Maglio;
2. Cross-Claim for Contribution from defendant Borough of Roseland;
3. Cross-Claim for Indemnification from defendant Chief Richard McDonough; and
4. Cross-Claim for Indemnification from defendant Police Officer Brian Maglio.

STEVEN J. KOSSUP, ESQ  
The Law Offices of Steven J. Kossup, PC  
One Mill Street, Post Office Box 158  
Branchville, New Jersey 07826

and all counsel via regular mail

MICHAEL JOHN STONE  
Stone Law Group  
20 Glenview Drive  
Warren, New Jersey 07059

FOX AND FOX LLP  
Attorneys for Defendants Borough of Roseland,  
Brian Maglio and Richard McDonough

By:   
DAVID I. FOX, ESQ. (DF 8011)

Dated: February 24, 2004